



Nevada Board for the Regulation of Liquefied Petroleum Gas
Post Office Box 338 • Carson City, Nevada 89702
Phone: (775) 687-4890 • Fax: (775) 687-3956
Web Site: www.lpg.nv.gov

NOTICE OF WORKSHOP, TO SOLICIT COMMENTS ON PROPOSED REGULATION

The Nevada Board for the Regulation of Liquefied Petroleum Gas is proposing the adoption, amendment, and/or repeal of regulations pertaining to chapter 590 of Nevada Administrative Code. A workshop has been set for November 21, 2003, 10:00 AM at the Laxalt Building, Commission Chambers, upstairs, 401 North Carson Street, Carson City, Nevada. The purpose of the workshop is to solicit comments from interested persons on the following general topics that may be addressed in the proposed regulations:

1. The purpose of the proposed regulations is to update the current regulations, provide criteria and procedures for resolving complaints against licensees, and other matters described in paragraph 2. The amendments will update the NAC to better reflect the Board's requirements for safety to the public and industry.
2. The terms or substance of the regulations are as follows:
 - a) Pressure requirements for residential buildings
 - b) regulations adopted by reference (NAC 590.600, 590.610, 590.620 & 590.640) regarding liquefied petroleum gas code, national fuel gas code, fire safety criteria for manufactured home installations, sites and communities; and standards on recreational vehicles, including NFPA publications 58, 54, 501A and 1192.
 - c) Mediation of consumer complaints regarding dealers of LP Gas
 - d) Disciplinary complaints, filing of informal complaints and formal complaints; default, response, review, investigation; notice of hearing; consolidation
 - e) Order of presentation in proceedings
 - f) Procedural and prehearing matters
 - g) Appearances; required attendance; default for failure to appear
 - h) Discovery of witnesses and evidence; prehearing conference; motions
 - i) Final order or decision
 - j) Grounds for disciplinary action against a licensee
 - k) Creation of a subclass 1 license with a license fee less than existing class 1 license fee.
 - l) Requirements for engineering plans of the physical properties and facilities of any applicant for a license.
 - m) Requirements for below grade installations.
3. There should be no adverse economic effects on either the public or the LPGas industry. The benefits of the proposed changes are to increase public safety through consumer service, disciplinary action, and maintain the Board's safety record.
4. There should be no increase in expenses associated with enforcing the proposed regulations.
5. There are no duplications or overlapping regulations of any state, local or federal agencies.
6. No federal law requires the proposed regulations.
7. The regulation changes are not more stringent than any federal regulations that regulate the same activity.
8. The proposed regulation will establish a new fee for a proposed subclass of class one licenses.

A copy of all materials relating to the proposal may be obtained at the workshop or by contacting The Nevada Board for the Regulation of Liquefied Petroleum Gas, P.O. Box 338, Carson City, NV 89702. A reasonable fee for copying may be charged.

This Notice of Workshop to Solicit Comments on Proposed Regulation has been sent to all persons on the agency's mailing list for administrative regulations and posted at the following locations; Carson City Library, 900 North Roop Street, Carson City, Nevada 89701 - Churchill County Library, 553 South Maine Street, Fallon, Nevada 89406 - Las Vegas Library, 833 Las Vegas Boulevard North, Las Vegas, Nevada 89101 - Douglas County Library, Post Office Box 337, 1625 Library Lane, Minden, Nevada 89423 - Elko County Library, 720 Court Street, Elko, Nevada 89801 - Goldfield Public Library, Post Office Box 430, (Fourth & Crook Street), Goldfield, Nevada 89013 - Eureka Branch Library, Post Office Box 293, 10190 Monroe Street, Eureka, Nevada 89316 - Humboldt County Library, 85 East 5th Street, Winnemucca, Nevada 89445 - Lincoln County Library, Post Office Box 330, 93 Main Street, Pioche, Nevada 89043 - Lyon County Library, 20 Nevin Way, Yerington, Nevada 89447 - Mineral County Library, Post Office Box 1390, (First & A Street), Hawthorne, Nevada 89415 - Tonopah Public Library, Post Office Box 449, 171 Central Street, Tonopah, Nevada 89049 - Pershing County Library, Post Office Box 781, 1125 Central Avenue, Lovelock, Nevada 89419 - Storey County Library, Post Office Box 14, 95 South R Street, Virginia City, Nevada 89440 - Washoe County Library, Post Office Box 2151, 301 South Center, Reno, Nevada 89505 - White Pine County Library, 950 Campton Street, Ely, Nevada 89301 - Battle Mountain Branch Library, Post Office Box 141, Battle Mountain, Nevada 89820, Appendix D and on the Boards website www.lpg.nv.gov

SMALL BUSINESS IMPACT STATEMENT

The Board has made a preliminary determination that the proposed regulations will not have a direct and substantial economic burden on small businesses. Interested parties may comment on this statement.



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NOTICE OF INTENT TO ACT UPON A REGULATION

Notice of Hearing for the adoption, amendment and/or repeal of regulations of the Nevada Board for the Regulation of Liquefied Petroleum Gas

The Nevada Board for the Regulation of Liquefied Petroleum Gas will hold a public hearing on November 21, 2003, 10:15 AM at the Laxalt Building, Commission Chambers, upstairs, 401 North Carson Street, Carson City, Nevada. The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment and/or repeal of regulations that pertain to chapter 590 of the Nevada Administrative Code.

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. The purpose of the proposed regulations is to update the current regulations, provide criteria and procedures for resolving complaints against licensees, and other matters described in paragraph 2. The amendments will update the NAC to better reflect the Board's requirements for safety to the public and industry.
2. The terms or substance of the regulations are as follows:
 - a) Pressure requirements for residential buildings
 - b) regulations adopted by reference (NAC 590.600, 590.610, 590.620 & 590.640) regarding liquefied petroleum gas code, national fuel gas code, fire safety criteria for manufactured home installations, sites and communities; and standards on recreational vehicles, including NFPA publications 58, 54, 501A and 1192.
 - c) Mediation of consumer complaints regarding dealers of LP Gas
 - d) Disciplinary complaints, filing of informal complaints and formal complaints; default, response, review, investigation; notice of hearing; consolidation
 - e) Order of presentation in proceedings
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 - g) Appearances; required attendance; default for failure to appear
 - h) Discovery of witnesses and evidence; prehearing conference; motions
 - i) Final order or decision
 - j) Grounds for disciplinary action against a licensee
 - k) Creation of a subclass 1 license with a license fee less than existing class 1 license fee.
 - l) Requirements for engineering plans of the physical properties and facilities of any applicant for a license.
 - m) Requirements for below grade installations.
3. There should be no adverse economic effects on either the public or the LPGas industry. The benefits of the proposed changes are to increase public safety through consumer service, disciplinary action, and maintain the Board's safety record.
4. There should be no increase in expenses associated with enforcing the proposed regulations.
5. There are no duplications or overlapping regulations of any state, local or federal agencies.
6. No federal law requires the proposed regulations.
7. The regulation changes are not more stringent than any federal regulations that regulate the same activity.
8. The proposed regulation will establish a new fee for a proposed subclass of class one licenses.

Persons wishing to comment upon the proposed action of the Nevada Board for the Regulation of Liquefied Petroleum Gas may appear at the scheduled public hearing or may address their comments, data, views, or arguments in written form to:

Nevada Board for the Regulation of Liquefied Petroleum Gas
P O Box 338
Carson City Nevada 89702

Written submissions must be received by the Nevada Board for the Regulation of Liquefied Petroleum Gas on or before November 20, 2003. If no person who is directly affected by the proposed actions appears to request time to make an oral presentation, the Nevada Board for the Regulation of Liquefied Petroleum Gas may proceed immediately to act upon any written submissions.

A copy of this notice and the regulation to be adopted, amended, and/or repealed will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation to be adopted, amended, and/or repealed will be available at 106 E. Adams St., Carson City, NV 89706, the Board website www.lpg.nv.gov, and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

**PROPOSED REGULATION OF THE BOARD FOR THE
REGULATION OF LIQUEFIED PETROLEUM GAS
LCB File No. R014-03**

August 28, 2003

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1-24, NRS 590.505 and 590.515.

Section 1. Chapter 590 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 14, inclusive, of this regulation.

Sec. 2. *As used in NAC 590.650 and sections 2 to 14, inclusive, of this regulation, unless the context otherwise requires:*

1. "Licensee" includes:

- (a) *A person who is licensed by the Board or who holds a certificate of competency issued by the Board pursuant to NRS 590.465 to 590.645, inclusive, and NAC 590.100 to 590.650, inclusive, and sections 2 to 14, inclusive, of this regulation; and*
- (b) *An applicant for such a license or certificate.*
2. "Presiding officer" means the Chairman of the Board or any member of the Board designated by the Chairman to preside over a hearing or matter before the Board.
3. "Staff" means the staff of the Board.

Sec. 3. *The staff shall log and record all records relating to inquiries, requests for mediation and written complaints, including, without limitation, memos of relevant conversations, all correspondence relating to a request for mediation or a complaint, the minutes of any hearing and a copy of the resolution of the request for mediation or the complaint.*

Sec. 4. 1. *A person may file a complaint with the Board concerning the acts of or services provided by a licensee if:*

- (a) *The person wishes to file an accusation against the licensee and specifically requests that disciplinary action be taken against the licensee; or*
- (b) *The person filed a request for mediation pursuant to NAC 590.650 and the Board, the licensee and the person who filed the request for mediation were unable to resolve the matter raised in the request for mediation.*

2. *The Board will process:*

- (a) *A citation issued by the Board pursuant to subsection 2 of NRS 590.605; and*
- (b) *If the circumstances so warrant, a petition under NRS 233B.120,*
~~was a complaint filed pursuant to this section.~~

3. *The Board will initially consider any complaint filed against a licensee pursuant to this section as an informal complaint. The informal complaint must be verified by the affidavit of the complainant and be filed with the Board on a form provided by the Board. The complainant shall include with his informal complaint information that is sufficiently detailed so as to enable the licensee to prepare a response.*

4. *Upon receipt of an informal complaint, the staff shall examine the informal complaint to determine whether it:*

- (a) *Has been properly verified; and*
- (b) *Alleges sufficient facts to warrant further proceedings.*

5. *If the staff determines that an informal complaint has been properly verified and alleges sufficient facts, the staff shall notify the licensee of the informal complaint by sending a copy or summary of the informal complaint to the licensee by certified mail. The notification must set forth the potential violations of NRS 590.465 to 590.645, inclusive, or NAC 590.100 to 590.650, inclusive, and sections 2 to 14, inclusive, of this regulation raised in the informal complaint and request a written response from the licensee for review by the staff. The licensee shall submit a written response to the informal complaint or summary to the Board:*

- (a) *Not later than 15 days after the date on which the informal complaint or summary is personally served on the licensee; or*
- (b) *If the informal complaint or summary is not personally served on the licensee, not later than 15 days after the date on which the informal complaint or summary is deposited in the United States mail as certified mail addressed to the licensee at his address of record.*

6. *A written response to an informal complaint or a summary must respond to the allegations made in the informal complaint or summary and be accompanied by all documentation that would be useful to the staff in its review of the allegations made in the informal complaint or summary and the responses of the licensee to those allegations. If a licensee fails to respond as required by this section, the licensee shall be deemed to have admitted the allegations in the informal complaint or summary. Based on these admissions, the Board may impose appropriate discipline on the licensee in the same manner as if the allegations had been proven by substantial evidence at a hearing on a formal complaint.*

7. *Upon the filing of a written response pursuant to this section, the staff shall review the informal complaint and the responses made thereto, may enlist the aid of any member of the Board or other qualified person in conducting the review and may take any other reasonable action necessary to further the review. After its review of the informal complaint and the responses made thereto, the staff may:*

- (a) *Investigate the allegations and employ such persons as the staff deems necessary to further the investigation;*
- (b) *Consult persons with expertise in the appropriate field and employ those persons for the purposes of an investigation or a hearing;*
- (c) *Investigate new leads and allegations that the staff learns of in the course of the investigation;*
- (d) *Enlist the aid of any member of the Board or other qualified person in conducting the investigation; and*
- (e) *Take any other reasonable action necessary to further the investigation.*

8. *During an investigation of an informal complaint, the staff or an investigator for the Board may demand that a licensee produce any record or other evidence for inspection or copying, with or without prior notice to the licensee and with or without a subpoena. A licensee shall not deny a request for a record or other evidence if the record or other evidence is not otherwise declared to be confidential by a specific statute. If a licensee refuses or fails to cooperate with a request for a record or other evidence in violation of this section, the Board may immediately suspend his license or certificate until the licensee complies with the request. If the licensee continues to refuse or to fail to cooperate with such a request in violation of this section, the Board may take such further disciplinary action against the licensee as the Board determines necessary.*

9. *If the staff or investigator determines that a specific record or other specific evidence that the licensee is required to produce is material to or necessary for an investigation, the staff or investigator may remove the record or evidence and provide a copy of the record or evidence to the licensee. If a record or other evidence can be readily copied at the location where the record or evidence is located, the staff or investigator shall make a copy of the record or evidence at that location. If the record or other evidence cannot be readily copied at that location, the staff or investigator may remove the record or evidence from that location for copying.*

10. *Upon the removal of a record or other evidence pursuant to this section, the staff or investigator shall provide the person to whom the record or evidence belongs with a receipt for the record or evidence and, not later than 5 business days after the record or evidence is removed, provide a copy of the record or evidence to that person.*

Sec. 5. 1. *When the investigation of an informal complaint is complete, the staff and, if applicable, the investigator for the Board shall determine whether substantial evidence exists to sustain the alleged violation of a statute or regulation set forth in the informal complaint. If the staff and investigator determine that no such allegation set forth in the complaint can be sustained, the staff shall notify, in writing, the complainant and licensee of that determination.*

2. *If the staff and investigator determine that a violation of a statute or regulation as alleged in the complaint can be sustained, the legal counsel for the Board shall:*

- (a) *Offer to the complainant and licensee mediation, a settlement agreement, a stipulation of facts and liability, or an informal hearing; or*
- (b) *Prepare a notice of hearing and a formal complaint.*

3. *If any mediation, settlement agreement, stipulation of facts and liability, or informal hearing offered by the legal counsel for the Board pursuant to paragraph (a) of subsection 2 fails to resolve the matter, the legal counsel for the Board shall prepare a notice of hearing and a formal complaint pursuant to paragraph (b) of subsection 2.*

4. *In addition to the requirements set forth in NRS 233B.121, a notice of hearing and a formal complaint must be signed by the legal counsel for the Board and, if a member of the Board was active in the investigation, by that member.*

5. *The staff shall send a notice of hearing and a formal complaint prepared pursuant to this section to the licensee named in the notice by certified mail.*

6. *A licensee who receives a notice of hearing and a formal complaint shall file an answer to the notice of hearing and the formal complaint with the Board:*

- (a) *Not later than 15 days after the date on which the notice of hearing and the formal complaint are personally served on the licensee; or*
- (b) *If the notice of hearing and the formal complaint are not personally served on the licensee, not later than 15 days after the date on which the notice of hearing and the formal complaint are deposited in the United States mail as certified mail addressed to the licensee at his address of record.*

7. *An answer to a notice of hearing and a formal complaint must include a response to each allegation and statement made in the notice of hearing and the formal complaint by either admitting to or denying the allegation or statement.*

8. *If a licensee fails to file an answer as required by this section, the licensee shall be deemed to have admitted each allegation and statement contained in the notice of hearing and the formal complaint. Based on these admissions, the Board may enter a finding and impose appropriate discipline on the licensee in the same manner as if the allegations had been proven by substantial evidence at a hearing held on the formal complaint.*

Sec. 6. *The Board may join two or more formal complaints into one formal complaint if:*

1. *The causes of action of each formal complaint are against the same person and deal with substantially the same or similar violations of statutes or regulations; and*
2. *The Board determines that the joining of the formal complaints will serve the best interests of the Board and the parties involved.*

Sec. 7. 1. *Not later than 10 days after a licensee files an answer to a notice of hearing and a formal complaint pursuant to section 5 of this regulation, the legal counsel for the Board and the licensee shall provide to each other, respectively:*

- (a) *Copies of all documents that are reasonably available to him which he reasonably anticipates will be used to support his position; and*
- (b) *A written list of the names of the witnesses whom he reasonably anticipates calling to testify at the hearing to support his position. The list must include the name and address, and a general description of the anticipated subject matter of the testimony, of each such witness.*

2. *If, after initially providing the copies of documents and the list of witnesses pursuant to subsection 1, the legal counsel for the Board or the licensee reasonably anticipates that other documents or witnesses will be used to support his position, or if any document or information previously provided changes, he shall forthwith supplement and update his submission to the other party.*

3. *If the legal counsel for the Board or the licensee fails to provide copies of documents or the list of witnesses, or any updated information relating thereto, as required by this section, the presiding officer may exclude the undisclosed document, the testimony of the undisclosed witness or the undisclosed information at the hearing.*

- Sec. 8.** *Discovery may only be undertaken in accordance with NAC 590.650 and sections 2 to 14, inclusive, of this regulation. The Board will not allow the taking of depositions.*
- Sec. 9.** *1. The presiding officer may order a prehearing conference on a formal complaint and may enter such prehearing orders and rulings on preliminary matters as he determines are appropriate for the efficient conduct of the hearing on the formal complaint. Such orders and rulings may include, without limitation, orders and rulings concerning:*
- (a) The exchange of written direct testimony of witnesses.*
 - (b) The exclusion of particular testimony or evidence.*
 - (c) The admission of particular testimony and other exhibits by agreement of the parties.*
 - (d) The marking in advance of all exhibits.*
 - (e) The exchange by the parties of written prehearing statements or briefs similar to pretrial statements or briefs filed in district court.*
 - (f) Settlement negotiations. Settlement negotiations, and the statements of the parties relating thereto, made at a prehearing conference are not admissible in evidence at the hearing unless the parties agree and the agreement is incorporated in a prehearing order.*
 - (g) Scheduling matters.*
 - (h) Protective orders.*
 - (i) The admissibility of evidence.*
 - (j) Any other procedural or prehearing matter.*
- 2. A ruling on a preliminary matter is subject to reconsideration by the entire Board upon the request of a member of the Board or upon the motion of a party.*
- 3. The failure of a party who is adversely affected by a ruling on a preliminary matter to move for reconsideration of the ruling does not constitute:*
- (a) Consent to the ruling; or*
 - (b) A waiver of any objection previously made to the ruling.*
- 4. For the purposes of this section, a matter is a preliminary matter if it is not dispositive of a contested case or a substantive issue in a contested case.*
- Sec. 10.** *1. A motion concerning any matter before the Board must be made in writing, unless the motion is made during a hearing on that matter. The presiding officer may deny as untimely:*
- (a) Any motion made during a hearing if the motion could have reasonably been made before the hearing; and*
 - (b) Any motion that is filed on a date that does not provide the opposing parties a reasonable time to respond.*
- 2. A written motion must set forth the nature of the relief sought by and the grounds for the motion.*
- 3. A party may oppose a written motion by filing a written response to the motion with the Board and serving a copy of the response on all other parties to the proceeding to which the motion relates within 10 days after the written motion is filed.*
- 4. If a written response to a written motion is filed, the party who made the written motion may file and serve a written reply to the response.*
- 5. Except as otherwise provided in this section, the presiding officer shall rule on all written motions on a matter at or before the hearing scheduled on the matter. The presiding officer may rule on any motion without oral argument or may allow oral arguments to be made before ruling on the motion. If the presiding officer allows oral arguments on a written motion to be made, the presiding officer shall set a time and date for hearing the oral arguments.*
- 6. The presiding officer may require the Board to vote to decide a motion.*
- Sec. 11.** *For any hearing before the Board:*
- 1. The presiding officer shall call the hearing to order and take the appearances on behalf of the Board and the licensee.*
 - 2. The notice of hearing, any petition, answer, response or written stipulation, and if the hearing concerns a disciplinary matter, the notice of hearing and the formal complaint and any other responsive pleading relating thereto, become a part of the record without being read into the record unless a party requests that such a document be read into the record.*
 - 3. The legal counsel for the Board shall present the evidence for the Board first and, if the Board allows closing arguments, shall present the closing argument for the Board last.*
 - 4. Unless otherwise ordered by the presiding officer, and except as otherwise provided in this section, the order of presentation is as follows:*
 - (a) Opening statement by the legal counsel for the Board.*
 - (b) Opening statement by the respondent or the attorney for the respondent, who may choose to make the opening statement at the beginning of the respondent's case.*
 - (c) Testimony of witnesses offered by the legal counsel for the Board as follows:*
 - (1) Direct examination by the legal counsel for the Board;*
 - (2) Cross-examination by the respondent or the attorney for the respondent;*
 - (3) Redirect examination by the legal counsel for the Board; and*
 - (4) Recross-examination by the respondent or the attorney for the respondent.*
 - (d) Testimony of witnesses offered by the respondent, as follows:*
 - (1) Direct examination by the respondent or the attorney for the respondent;*
 - (2) Cross-examination by the legal counsel for the Board;*
 - (3) Redirect examination by the respondent or the attorney for the respondent; and*
 - (4) Recross-examination by the legal counsel for the Board.*
 - (e) If applicable, closing arguments by the respondent or the attorney for the respondent.*
 - (f) If applicable, closing arguments by the legal counsel for the Board.*
 - 5. A member of the Board may, at any time during the hearing:*
 - (a) Question a witness; and*
 - (b) Request or allow additional evidence, including additional or documentary evidence.*
 - 6. If the hearing is a consolidated hearing, the hearing must proceed in the same manner as described in this section with the order of the parties and the presentation of evidence to be determined by the presiding officer.*
 - 7. Posthearing briefs may be allowed by the presiding officer or upon a majority vote of the members of the Board. If such briefs are allowed, the Board will establish the time by which the briefs must be submitted.*
- Sec. 12.** *1. Except as otherwise provided in subsection 2, a party may appear at a hearing in person or by an attorney.*
- 2. A party to a formal complaint shall attend the evidentiary hearing on the merits of the formal complaint in person unless the presiding officer waives the requirement of the attendance of the party.*
- 3. If a party who is required to attend a hearing in person fails to do so without having obtained a waiver of the requirement of his attendance pursuant to subsection 2, the Board may:*
- (a) Determine that his failure to attend the evidentiary hearing in person shall be deemed:*
 - (1) An admission of all matters and facts contained in the record with respect to the party; and*
 - (2) A waiver of the right to an evidentiary hearing; and*
 - (b) Take action based upon such admission or upon any other evidence, including affidavits, without any further notice or a hearing.*
- 4. If a party retains an attorney to represent him before the Board, the attorney shall so notify the Board not later than 10 days after he is retained. Thereafter:*
- (a) The attorney shall sign all motions, oppositions, notices, requests and other papers, including requests for subpoenas; and*
 - (b) The Board will serve all notices, motions, orders, decisions, and other papers or pleadings upon the attorney.*
- 5. An attorney appearing as counsel in any proceeding must be an attorney at law, admitted to practice and in good standing before the highest court of any state. If the attorney is not admitted and entitled to practice before the Supreme Court of Nevada, he must be associated with an attorney so admitted and entitled to practice.*
- Sec. 13.** *1. After an evidentiary hearing on the merits in a disciplinary proceeding, if the Board finds that the licensee is:*
- (a) Not guilty as charged in the formal complaint, the Board will issue a final order or decision dismissing the charges and notify the licensee and the complainant that the charges have been dismissed.*
 - (b) Guilty as charged in the formal complaint, the Board will:*
 - (1) Before agreeing on a punishment, consider all relevant factors, including, without limitation:*
 - (I) The danger to the health or safety of the public created by the violation;*
 - (II) The economic benefit received by the licensee from the violation;*
 - (III) Any mitigation or aggravation by the licensee of the effects of the violation;*
 - (IV) The extent to which the licensee demonstrates his good faith;*
 - (V) Any previous history of violations by the licensee;*
 - (VI) Whether the licensee knew or, as a competent person, should have known that the action complained of was a violation of a statute, a regulation or a condition of his license;*
 - (VII) Whether the licensee has initiated remedial measures to prevent similar violations;*
 - (VIII) The magnitude of penalties imposed on other licensees for similar violations;*
 - (IX) The proportionality of the penalty in relation to the misconduct; and*
 - (X) If the licensee offered evidence of mitigating factors, all such evidence;*
 - (2) Agree upon punishment that may, in addition to any other sanction authorized pursuant to NRS 590.465 to 590.645, inclusive, and NAC 590.100 to 590.650, inclusive, and sections 2 to 14, inclusive, of this regulation, require the licensee to:*
 - (I) Fulfill certain training or educational requirements; and*
 - (II) Pay all costs incurred by the Board relating to the disciplinary proceedings; and*
 - (3) Issue and serve the final order or decision of the Board on the licensee.*
 - 2. A final order or decision by the Board that is adverse to the licensee must:*
 - (a) Be in writing;*
 - (b) Except as otherwise provided in subsection 5 of NRS 233B.121, include findings of fact and conclusions of law; and*
 - (c) Specifically set forth the punishment imposed on the licensee.*

3. A final order or decision of the Board in a disciplinary proceeding is effective on the earliest of:

- The date on which the final order or decision is personally served on the licensee;
- The date on which the final order or decision is posted at the premises of the licensee; or
- The third day after the date on which the final order or decision is deposited in the United States mail as certified mail addressed to the licensee at his address of record.

Sec. 14. The following acts and omissions by a licensee are grounds for discipline:

- Violating any provision of NRS 590.465 to 590.645, inclusive, or NAC 590.100 to 590.650, inclusive, and sections 2 to 14, inclusive, of this regulation.
- Failing to cooperate with the Board in the investigation of a request for mediation, an informal complaint or a formal complaint, including, without limitation, failing to file a written response as required by section 4 of this regulation and failing to file an answer as required by section 5 of this regulation.
- Failing to respond to a request for mediation.
- Failing to attend a disciplinary hearing without having obtained a waiver of the requirement of his attendance.
- Conducting business after his license or certificate of competency has lapsed if the license or certificate has not been renewed.
- Conducting business after the insurance required by NAC 590.270 has lapsed if the insurance has not been renewed.
- Willfully making a false report, record or claim in his business.
- Failing to comply with a settlement agreement, an order of the Board or any other disposition of a prior disciplinary action or mediation.
- Advertising his business in a manner that is:
 - False; or
 - Intended or has a tendency to:
 - Deceive or mislead the public; or
 - Create unrealistic expectations in any particular case.
- Engaging in any other conduct that the Board determines constitutes unfitness or incompetence to engage in activities that are authorized by his license.
- Acting or conducting his operations in any manner which the Board deems to be inimical to and not in the best interests of the health, safety or welfare of the people of this state.
- Being subject to disciplinary action in which a board or any other similar entity in this state or in another state which has issued a license, certificate, registration or other credential in a related field to the licensee revokes or suspends the license, certificate, registration or other credential or takes any other disciplinary action against the licensee. As used in this subsection, a "license, certificate, registration or other credential in a related field" includes, without limitation, a general contractor's license and a steam fitter's license.
- Delivering a lesser quantity of gas than the amount for which he bills a customer with the intent to defraud the customer.

Sec. 15. NAC 590.100 is hereby amended to read as follows:

590.100 As used in NAC 590.100 to 590.650, inclusive, and sections 2 to 14, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in NAC 590.110 to 590.190, inclusive, have the meanings ascribed to them in those sections.

Sec. 16. NAC 590.140 is hereby amended to read as follows:

590.140 "Container" has the meaning ascribed to it in Publication ~~[No. 58, Standard for the Storage and Handling of]~~ 58, Liquefied Petroleum ~~[Gases.]~~ Gas Code, issued by the National Fire Protection Association.

Sec. 17. NAC 590.150 is hereby amended to read as follows:

590.150 "Cylinder" has the meaning ascribed to it in Publication ~~[No. 58, Standard for the Storage and Handling of]~~ 58, Liquefied Petroleum ~~[Gases.]~~ Gas Code, issued by the National Fire Protection Association.

Sec. 18. NAC 590.465 is hereby amended to read as follows:

590.465 1. Before a new below grade installation of LP gas is used, it must be tested and inspected by a certified LP gas service person to ensure that the installation complies with the requirements set forth in the most current editions that have been approved by the Board of Publication 54, National Fuel Gas Code, issued by the National Fire Protection Association, adopted by reference pursuant to NAC 590.610, and Publication 58, ~~[Standard for Storage and Handling of]~~ Liquefied Petroleum ~~[Gases.]~~ Gas Code, issued by the National Fire Protection Association, adopted by reference pursuant to NAC 590.600.

2. An existing below grade installation of LP gas must be tested and inspected by a certified LP gas service person annually to ensure that the installation complies with the requirements described in subsection 1.

3. The certified LP gas service person who conducts the test and inspection of a below grade installation pursuant to subsection 1 or 2 shall make a record of the results of the test and inspection and maintain that record at his place of business:

- For not less than 1 year; or
- Until he conducts a subsequent test and inspection of that below grade installation, whichever occurs earlier.

4. As used in this section, "below grade installation" means an installation in a pit or in the basement of a building.

Sec. 19. NAC 590.490 is hereby amended to read as follows:

590.490 Piping systems for LP gas which exceed a ~~[water column]~~ gauge pressure of ~~[18 inches]~~ 2 pounds per square inch may not be installed in residences.

Sec. 20. NAC 590.600 is hereby amended to read as follows:

590.600 The Board adopts by reference the regulations contained in Publication 58, ~~[Standard for Storage and Handling of]~~ Liquefied Petroleum ~~[Gases, 1989]~~ Gas Code, 2001 edition, and any subsequent edition issued by the National Fire Protection Association, which has been approved by the Board for use in Nevada. Each new edition shall be deemed approved by the Board unless the edition is disapproved by the Board within ~~[60]~~ 120 days after the date ~~[of publication by]~~ on which the Board receives the printed publication from the National Fire Protection Association. The Board will review each edition issued after the ~~[1989]~~ 2001 edition to ensure its suitability for Nevada. The most current edition that has been approved by the Board ~~[will be]~~ is available for purchase from the ~~[Board at 106 East Adams, Room 216, Carson City, Nevada 89701, for the price of \$26.50.]~~ National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101, by telephone at 1.800.344.3555, or on the Internet at <www.nfpa.org>, for the price of \$36.75.

Sec. 21. NAC 590.610 is hereby amended to read as follows:

590.610 The Board adopts by reference the regulations contained in Publication 54, National Fuel Gas Code, ~~[1988]~~ 2002 edition, and any subsequent edition issued by the National Fire Protection Association, which has been approved by the Board for use in Nevada. Each new edition shall be deemed approved by the Board unless the edition is disapproved by the Board within ~~[60]~~ 120 days after the date ~~[of publication by]~~ on which the Board receives the printed publication from the National Fire Protection Association. The Board will review each edition issued after the ~~[1988]~~ 2002 edition to ensure its suitability for Nevada. The most current edition that has been approved by the Board ~~[will be]~~ is available for purchase from the ~~[Board at 106 East Adams, Room 216, Carson City, Nevada 89701, for the price of \$26.50.]~~ National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101, by telephone at 1.800.344.3555, or on the Internet at <www.nfpa.org>, for the price of \$36.75.

Sec. 22. NAC 590.620 is hereby amended to read as follows:

590.620 The Board adopts by reference the regulations contained in Publication 501A, Standard for Fire Safety Criteria for Manufactured Home Installations, Sites and Communities, ~~[1987]~~ 2000 edition, and any subsequent edition issued by the National Fire Protection Association, which has been approved by the Board for use in Nevada. Each new edition shall be deemed approved by the Board unless the edition is disapproved by the Board within ~~[60]~~ 120 days after the date ~~[of publication by]~~ on which the Board receives the printed publication from the National Fire Protection Association. The Board will review each edition issued after the ~~[1987]~~ 2000 edition to ensure its suitability for Nevada. The most current edition that has been approved by the Board ~~[will be]~~ is available for purchase from the ~~[Board at 106 East Adams, Room 216, Carson City, Nevada 89701, for the price of \$26.50.]~~ National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101, by telephone at 1.800.344.3555, or on the Internet at <www.nfpa.org>, for the price of \$23.50.

Sec. 23. NAC 590.640 is hereby amended to read as follows:

590.640 The Board adopts by reference the regulations contained in Publication ~~[501C.]~~ 1192, Standard on Recreational Vehicles, ~~[1987]~~ 2002 edition, and any subsequent edition issued by the National Fire Protection Association, which has been approved by the Board for use in Nevada. Each new edition shall be deemed approved by the Board unless the edition is disapproved by the Board within ~~[60]~~ 120 days after the date ~~[of publication by]~~ on which the Board receives the printed publication from the National Fire Protection Association. The Board will review each edition issued after the ~~[1989]~~ 2002 edition to ensure its suitability for Nevada. The most current edition that has been approved by the Board ~~[will be]~~ is available for purchase from the ~~[Board at 106 East Adams, Room 216, Carson City, Nevada 89701, for the price of \$26.50.]~~ National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269-9101, by telephone at 1.800.344.3555, or on the Internet at <www.nfpa.org>, for the price of \$27.75.

Sec. 24. NAC 590.650 is hereby amended to read as follows:

590.650 1. A ~~[written complaint]~~ person may file an accusation against a licensee concerning the prices, rates, services or other acts of the licensee. An accusation filed with a member of the ~~[Board's]~~ staff against a ~~[dealer of LP gas]~~ licensee will be referred to the ~~[dealer]~~ licensee if that member deems it necessary for possible resolution. An accusation filed against a licensee will be processed as a request for mediation unless the person filing the accusation specifically requests that disciplinary action be taken against the licensee.

2. ~~[A]~~ If a person wishes to file an accusation against a licensee which does not specifically request that disciplinary action be taken against the licensee, a member of the ~~[Board's]~~ staff shall send to the ~~[complainant a complaint form]~~ person a request for mediation and a referral list. The referral list will include the names of agencies to ~~[whom the complaint]~~ which the accusation may be referred. The ~~[complainant]~~ person must complete the ~~[complaint form]~~ request for mediation and return it to the Board.

3. Upon the receipt of a completed ~~[complaint form]~~ request for mediation, a member of the ~~[Board's]~~ staff shall send copies of the ~~[written complaint]~~ request for mediation to the ~~[dealer, the dealer's management and the members of the Board.]~~

~~4. The dealer shall notify the Board of the resolution of the written complaint within~~ licensee and, if applicable, the management of the licensee.

4. Within 15 days after receipt of the ~~[written complaint]~~ request for mediation, the licensee shall notify the staff as to whether the licensee and the person who filed the request for mediation were able to resolve the matter raised in the request for mediation.

5. If the ~~[dealer is unable]~~ licensee and the person who filed the request for mediation were not able to resolve the ~~[written complaint]~~ matter raised in the request for mediation, the Board will hold a hearing to mediate the ~~[complaint]~~ accusation. The mediation hearing will be held in conjunction with a regularly scheduled meeting of the Board.

6. A member of the Board's staff shall log and record all records relating to inquiries and written complaints, including, but not limited to, memos of relevant conversations, all correspondence relating to the complaint, the minutes of the hearing and a copy of the resolution of the complaint. If the matter raised in the request for mediation cannot be resolved at the mediation hearing, the Board will advise the licensee and the person who filed the request for mediation of that fact and inform the person who filed the request for mediation of the option to file a disciplinary complaint against the licensee pursuant to section 4 of this regulation.